86-790

Supreme Court, U.S.
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No._____

IN THE SUPREME COURT

OF THE

UNITED STATES

OCTOBER TERM, 1986

REINER SCHWARZ,

Petitioner,

vs.

CITY OF WARWICK, ET ALS.,

Respondents.

****

SUPPLEMENTAL APPENDIX

TO THE U.S. COURT OF APPEALS

FOR THE FIRST CIRCUIT

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REINER SCHWARZ, PRO SE.

374 SEA VIEW DRIVE, WARWICK, R.I. 02886

Tel. 1-401-738 7648

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SUPPLEMENTAL APPENDIX

U.S.COURT OF APPEALS FOR THE FIRST CIRCUIT

No. 86-1065

REINER SCHWARZ

Plaintiff, Appellant,

vs.

CITY OF WARWICK, ET ALS.,

Defendants, Appellees.

APPEAL FROM THE U.S. DISTRICT COURT

FOR THE DISTRICT OF RHODE ISLAND

Honorable Raymond J. Pettine,

Senior U.S. District Judge.

Before Coffin, Bownes and Torruella,

Circuit Judges. July 28,1986.

Per Curiam. This is a pro se appeal by plaintiff Reiner Schwarz from a dismissal of his complaint by the U.S. Court for the District of Rhode Island. The court granted defendants' motions to dismiss pursuant to

Rule 12(a)(2) of the local Rules of Court for the District of R.I. upon Schwarz's failure to file a timely opposition. Each defendant argued that the complaint failed to state a claim under Fed. Rules of Civil Procedure 12(b)(6).

Although pro se complaints are normally held to less stringent standards than pleadings drafted by lawyers, Sibarro v. Warden Mass. State Penitentiary, 592 F.2d 1, 2(1st Cir.),cert denied,444 U.S. 849(1979) even in such case Plaintiff must allege facts from which it can be reasonably inferred that an injury resulted by reason of the defendant's action,and that if that wrong is established,the Federal courts are competent to grant the relief requested. Bowker v. Morton,541 F 2d 1347,1349(9th Cir.1979. The pro se complaint is confusing narrative of incidents primarily concerning a neighborhood dispute. The "claims" are not plain or concise. Memorandum of law not related to the "facts" as they are

stated. Finding that there is no claim upon which relief can be granted, we conclude that the district court did not abuse its discretion by dismissing the complaint.

Affirmed.

U.S.DISTRICT COURT FOR THE DISTRICT OF R.I.

No objection being timely filed pursuant to Rule 12(a)(2) of the Local Rule of Court for the District of R.I., the within motion is granted. October 22,1985.

Hon.Raymond J.Pettine,Senior Judge.

On Motion for Reconsideration,

The Court stands by its previous ruling. Honorable Raymond J. Pettine,Senior Judge. December 12, 1985.

In both cases,cited by the U.S. Court of Appeals for the First Circuit, there is no bearing on Petitioner's case, except;

1. Federal Civil Procedure 671

Pro Se complaint is held to less stringent standards than pleadings drafted by lawyers.

2. Federal Civil Procedure ⇦1772

Motion to dismiss for failure to state cause of action is not proper remedy for inartful pleading. Fed.Rules Civ.Proc. rule 12(b)(6), 28 U.S.C.A.

Petitioner is a hard-working man that has helped in the building of the Prudential Center, to oak doors for Harvard University, and in R.I., from the tallest bldg. Hospital Trust Tower to the very Warwick Police Station where he was illegally held without a warrant, or crime committed.

He has not been indicted for anything, but kept getting arrested and apprehended and followed by police, until he became so nervous enroute to and from work that he stopped altogether before he did have a nervous breakdown. He is 53 years old and continual harassment after a hard day's work, just made it unbearable to face.

To have the Appeal Court compare this case with a prisoner's case extends the aura of criminality to Petitioner's case,

an innocent man beset by a few lawless policemen,and hirelings of the local corrupt politicians, who have set everyone on us but wild dogs. The criminals are in Warwick City Hall. The police said their orders were coming from the Mayor's office.

Petitioner has been forced to buy bottle water since 1978 when the sewer project broke our original water pipes and replaced them with asbestos pipes that leave sediment in the water that is hazardous to our health. R.I. has the highest cancer death rate,and asbestos pipes have been buried throughout the state. Bowker v. Morton,concerns water(irrigation)but what the people wanted and needed and were using. We do not need,want,or use the asbestos sewer system. We voted it down 47% twice. It is not on our property.It was built for the condos, which has to have a sewer system before the condos can be built. The 2 leading lawyers for these condos stated that the condos'

owners shouldn't pay for sewers.(Apparently,only the people that don't need or use the sewer system should be forced to pay for it.) Furthermore,this sewer system involves a criminal act which was the false permit and falsified government documents, to bring raw sewage to clean "SA" water in violation of the Federal Water Pollution Control Act,1972,(Clean Water Act) which mandates that no sewage appurtenances can be sited on or at clean "SA" water after July 1,1973. Petitioner would be an accomplice to a criminal act if he complied by allowing the Respondents to attach their asbestos sewer pipes to his,Petitioner's house, knowing that this is an atrocity against man and nature,as well as the law.

Amendment 14-Rights Guaranteed Sec.1. Privileges & Immunities, the right to inform the United States authorities of violations of its laws. In re Quarles and Butler, 158 U.S. 532 (1895).

Rule that complaints in civil rights cases must be specifically pleaded in order to avoid motion to dismiss is not intended to subvert the liberal policy favoring amendment of complaints as expressed in Rule 15(a), Federal Rules of Civil Procedure, and considerations underlying such a rule must be balanced against the equally important policies that pro se litigants not be denied opportunity to state a civil rights claim because of technicalities, and that litigation, where possible, should be decided on the merits.

Lewis v Brautigam (CA5 Fla) 227 F2d 124, 55 ALR2d 505; Dunn v Gazzola (CA1 Mass) 216 F2d 709. Extension of time to answer and filing of answer before motion to dismiss for insufficiency of service of process did not bar relief requested in motion. Capital City Theatre Co. v Warner Bros. Pictures, Inc. (1956; DC NY) 19 FRD 210.

Motion to dismiss for failure to state

claim may be granted only in the clearest cases,and must be denied when additional facts are required before ultimate judgement may be arrived at. Swartz v Eberly(1962,ED Pa) 212 F Supp 32.

Meaning of word "claim" as it appears in Rule 12(b)(6) has been defined in closely analogous contexts as aggregate of operative facts which give rise to right enforceable in courts and as "set of facts giving rise to one or more legal rights." Goldstein v North Jersey Trust Co.(1966, SD NY) 39 FRD 363, 10 FR Serv 2d 574, 10 FR Serv 2d 674.

Order dismissing complaint with prejudice for failure to state claim, with no mention of amendment or attempt at amendment in record,is final appealable order. Cedar Coal Co. v United Mine Workers(1977, CA4 W Va) 560 F2d 1153,95 BNA LRRM 3015,

Complaint is sufficient to withstand motion to dismiss for failing to state claim upon which relief can be granted where

it sets out generalized statement of fact from which defendant may frame responsive pleading. Wooldridge Homes,Inc. v Bronze Tree,Inc.(1983,DC Colo)558 F Supp 1085,CCH Fed Secur L Rep 99167.

Complaint should not be dismissed merely because plaintiff's allegations do not support his stated legal theory,for court is obligated to determine whether allegations support relief on any possible theory. Re Longhorn Secur. Litigation(1983, WD Okla) 573 F Supp 255.

Although defense of failure to state claim is not waived by answer,merely pleading in broad terms does not amount to failure to state claim,especially when generality of pleading arises from statutory language. Minkoff v Steven Jrs,Inc.(1958, CA2 NY)260 F2d 588, 1 FR Serv 2d 74.

Mere vagueness or lack of detail is not grounds for motion to dismiss. Karno-Smith Co. v School Dist.(1942,DC Pa) 44 F Supp 860; Brauch v Birmingham(1943, DC Iowa) 49

F Supp 229, 43-1 USTC 9446; Hess v Factors Corp.(1948, DC Pa)80 F Supp 727; Fedorchak v Montgomery Ward(1955,DC Pa)18 FRD 1.

Claim. To demand as one's own or as one's right;to assert;to urge;to insist. Cause of action: Means by or through which claimant obtains possession or enjoyment of privileges or thing. Demand for money or property or injunctive relief. Black's Law Dictionary.

Claims were,and are,clearly stated on last page of Complaint,page 36.

Respondents failed to read Complaint, or do not care to address these atrocities perpetrated against Petitioner and his family due to 3 false arrests,and conspiracy to harm his family,and destroy his property,in violation of 42 USCS 1983,1985.

The facts in issue demand their application in the interest of justice and right. 8 ALR 754.

Pro se complaint so inartfully drawn that court cannot clearly determine gro-

unds for claim for false imprisonment is not dismissed in view of liberality with which courts are required to construe pro se pleadings. Stephenson v Gaskins(1976, CA5 Ga) 539 F2d 1066.

Prior allegations should be considered in determining whether good claim for relief is stated. Fleischmann Distilling Co. v Distillers Co.(1975, SD NY) 395 F Supp 221, 1975 CCH Trade Cases.

No matter how unlikely it may seem that plaintiff will prove its entitlement to relief Federal policy favors dispositions on proofs rather than on pleadings; plaintiff should be granted every opportunity to cure defects in its pleadings by amendment no matter how unpromising the initial attempt. Sixth Camden Corp. v Evesham(1976 DC NJ) 420 F Supp 709.

Fact that plaintiff might not be entitled to all relief sought did not warrant dismissal of entire suit. Refoule v Ellis

(1947, DC Ga) 74 F Supp 336.

Mere vagueness or lack of detail is not grounds for motion to dismiss, but complaint can be attacked by motion for more definite statement. Josephson v Joslin, (1964,DC NJ) 38 FRD 344.

Where motion to dismiss is predicated upon Rule 12(b)(6) petitioner is entitled to amend his petition. Kinney v Lenon(1971 CA9 Or) 447 F2d 596.

If court dismisses suit for lack of brevity, pleader should be informed of that so he may amend. Griffin v Locke(1961,CA 9 Ariz)286 F2d 514,4 FR Serv 2d 131.

Remedy by motion for more particular statement of claim. United Ins. Co. v B.W. Rudy,Inc.(1967,ED Pa) 42 FRD 398,11 FR Serv 2d 105. Sarter v Mays(1974,CA5 Ala)491 F2d 675. Keasbey & Mattison Co. v Rothensies(1941, DC Pa)1 FRD 626. Porter v Karvas(1946,CA10 NM)157 F2d 984. Payne v Rollings(1975,ED Va)402 F Supp 1225. Dack v

Shanman(1964,SD NY)227 F Supp 26. Schoeler v Roth(1942,DC NY)51 F Supp 518. Moawad v Childs(1982, CA5 Miss)673 F2d 850.

Complaint does not require amplification where information sought to be obtained is peculiarly within knowledge of defendant. There had been extensive discovery in earlier actions. Hylte Bruks Aktiebolag v Babcock & Wilcox Co.(1968,SD NY) 45 FRD 357, 12 FR Serv 2d 67. International Asso. of Machinists v United Aircraft Corp.(1962 DC Conn)30 FRD 142,6 FR Serv 2d 125.

Provision for service by mail(Rule 4(c)(2)(C)(ii) establishes alternative to rule 4(d)(1) procedure. Amendment permitting service by mail applies to summons' issued on or after Feb.26,1983. Jaffe v Federal Reserve Bank(1983,ND Ill)100 FRD 443. United States on behalf of Acoma & Laguna Indian Pueblos v Bluewater-Toltec Irrig.District(1983,DC NM) 100 FRD 687.

Petitioner, Reiner Schwarz, did serve all Respondents by certified mail and has

filed proof of service with the Clerk of the U.S. District Court for the District of R.I. Also,Petitioner has copies of them and return cards of all subsequent motions.

A motion to dismiss complaint in McIver v Russell(1967,DC Md)264 F Supp 22, with regard to a count alleging a violation of 42 USC 1983 of 5 defendant policemen, was denied. Court rejected the police argument that by virtue of the public nature of the employment they were immune from actions brought under the Federal Civil Rights Act. The court said there could be no doubt that Congress had the power to enforce provisions of the Fourteenth Amendment against those who carry a badge of authority of a state and represent it in some capacity, whether they act in accordance with their authority or misuse it,and that policemen clearly could not interpose the public nature of their job between a federal cause of action alleging deprivation of civil

rights and their potential accountability in damages therefor.

Valid claims were made of violations under 42 USC 1983 in Selico v Jackson(1962 DC Cal)201, Stringer v Dilger(1963,CA 10 Colo)313 F2d 536, Morgan v Labiak(1966, CA10 Colo)368 F2d 338,1 ALR Fed 512.

Petitioner did not name police,specifically,because this case involves conspiracy by a former, and present Mayor of the City of Warwick,who sent these policemen out on their orders,and with the collaboration of a known privileged informer, Karen Peterson,who had her arrest record for dealing in drugs expunged if she did cooperate with the Respondents to entrap Petitioner's wife. The police themselves warned Petitioner's wife of "serious charges and accusations" being made against her by Peterson, and that Petitioner's wife should stay indoors and keep her doors always locked. Peterson was arrested for dr-

ug dealing in a local bar several months ago,and a short while later it was dismissed,even though an assault on a policeman was involved,and Peterson is well known as a drug user and pusher,and apparently a professional witness. Two policemen were at 368,Nov.2,1986 from about 9:00 P.M. to 10:30 P.M. again,with clipboards. Bright headlights flashed by our windows and saw the 2 squad cars just beyond our fence.It was the latest episode but has been going on since Peterson moved in, and has been 3 years of Peterson's malice that has her writing reams of complaints and charges about Petitioner and his family (that the police take down word for word) and no matter how many times she threatens and trespasses,damages and lies about us. We are not afforded equal protection of the law. The police told us themselves they can not take any complaints from us.

Our house was illegally entered when we were in court. Petitioner's wife went to

her easy chair,springs and stuffing was all over the floor. Petitioner puzzled on how the vandals got in,and didn't know what was stolen. Sofa was slashed. Didn't call police. Figured they already knew about it,and it would be a waste of time.

Three days later,Peterson's boyfriend parked his truck near our porch,in the street,Peterson was shouting,"Oh what signs in her kitchen! Pathways to God,and Give me a break!" Her boyfriend said,"Shh! She'll hear you!"

So Peterson got us arrested,and all in court together,giving Peterson,and agency involved with her,to make their illegal entry,and unwarranted search and vandalism.

That is why we put the Respondents as, City of Warwick & State of R.I.'s Prosecution,Legal Offices,and their Agents & Associates,both known and unknown,including United States Agencies. The previous Attorney General's office of Dennis Roberts

was appraised of the warrantless arrest,so 12 days later,a Kenneth Madden of the A.G. office,made out a warrant. He is not a magistrate,and nothing impartial about that office(at that time).Its a false affidavit.

These were mentioned so court could see the length certain people went to in this conspiracy. Everyone we discovered traced back to the local Warwick Democratic"Phil Noel"group of Section 8 profiteers that wanted to bring sewage to our clean water and had authored the false sewer pump permit. Our Complaint is 36 pages long because of the many violations to our civil rights from 1978 until this point in time.

****

CIVIL ACTION FOR DEPRIVATION OF RIGHTS ---Every person who,under color of any statute,ordinance,regulation,custom,or usage of any State or Territory,subjects,or causes to subject,any citizen of the United States to the deprivation of any rights, privileges,or immunities secured by the Constitution and laws,shall be liable to

the party injured in an action at law, suit in equity, or other proper proceeding for redress. (RS Sec. 1979). This is the full text of 42 USCS 1983.

It has been determined that the common-law concept of judicial immunity was not abrogated by enactment of Sec. 1983, but it has been recognized that if all state officials were to be granted such immunity from liability for all acts done or committed within the ostensible scope of their authority, such would virtually amount to a judicial repeal of the civil rights acts. 16 ALR Fed 440 Sec. 2(a).

See Hoffman v Halden (1959, CA9 Or) 268 F2 d 280. The court did recognize that no immunity should be granted to an official who wilfully disobeys a court order.

This case was over-ruled on the 2 year limitation of time to enter case. Whereas, Petitioner has entered his suit well within this limitation, 1 year to the date.

In Ryan v Scoggins(1957,CA10 NM) 245 F2d 54, the court stated that it is only in instances in which a judge acts or proceeds offically in the clear absence of any color of jurisdiction in respect to a cause or matter over which the court is clearly without any color of jurisdiction that he may be subjected to personal liability as a trespasser for damages arising out of his unauthorized act.

In Cohen v Norris(1962,CA9 Cal)300 F2d 24, an action for conspiracy could be maintained under Sec.1983. While acknowledging that decision,the court declared that it must be remembered defendants in case were police acting in concert,who conspired under color of law and their authority, to deprive the plaintiff of rights.

In Monroe v Pape(1961)365 US 167,5 L Ed 2d 492, 81 S Ct 473, an action brought under Sec.1983 for an illegal search and arrest, the Supreme Court stated that regardless of the state having a law which,if

enforced,would give relief; it is no answer. The court declared the federal remedy is supplementary to the state remedy,and the latter need not be first sought and refused before the federal one is invoked.

City is "person" within meaning of 42 USCS 1983 with respect to actions for injunctive relief. Dailey v Lawton(1970,CA 10 Okla)425 F2d 1037,12 ALR Fed 956; Meltor v Atlanta(1971,DC Ga)324 F Supp 315; Traylor v Amarillo(1973,DC Tex)354 F Supp 1143,affd(CA5 Tex)492 F2d 1156.

Municipal corporations are considered persons within meaning of 42 USCS 1983 when equitable relief is sought,though they are not when legal relief is sought. Carpenter v Greenfield School Dist.(1973, DC Wis)358 F Supp 220.

Damages are recoverable under 42 USCS Sec.1983 for violations of a citizen's Fourth Amendment protections against unlawful arrest. Wyland v James(1977,DC Tex)

426 F Supp 304.

Individual's right to be free from unlawful arrest is right protected or secured by federal Constitution, violation of which may be grounds for suit under 42 USCS 1983. Duriso v K-Mart (1977, CA5 Tex) 559 F2d 1274.

If county attorney and his deputy committed acts, or authoritatively directed commission of acts, which ordinarily are related to police activity, cloak of immunity should not protect them. Robichaud v Ronan (1965, CA9 Ariz) 351 F2d 533.

Conspiracy claim can be validly made under 42 USCS 1983. Rundle v Madigan (1972, DC Cal) 356 F Supp 1048. Wade v Bethesda Hospital (1973, DC Ohio) 356 F Supp 380, 70 Ohio Ops 2d 218.

Supervisory officials indifference is actionable under 42 USCS 1983, Perry v Elrod (1977, DC Ill) 436 F Supp 299, Riley v Minneapolis (1977, DC Minn) 436 F Supp 954.

Arrest without probable cause is violative of right secured by Constitution and can be basis of recovery for illegal arrest pursuant to 42 USCS 1983, Sartin v Commissioner of Public Safety (1976 CA8 Minn)535 F2d 430. Droysen v Hansen (1973, DC Wis) 59 FRD 483.

Arrest and search without probable cause is classic, prima facie case in violation of 42 USCS 1983. Willits v Garmire (1974, DC Fla)379 F Supp 361.

Acting under color of law, plaintiff illegally detained and fingerprints and mug shots obtained from him. Beightol v Kunowski(1973,CA3 Pa)486 F2d 293,on remand (DC Pa) 382 F Supp 985. Sufficiently states cause of action for damages under 42 USCS 1983, also, denial of counsel during initial incarceration,even if no detrimental evidentiary matter extracted during detention. U.S. ex rel.Brzozowski v Randall(1968,DC Pa)281 F Supp 306.

Citizen's constitutional rights are of such value that nominal damages at least are presumed to flow from deprivation of such rights. Bell v Gayle (1974,DC Tex) 384 F Supp 1022.

Compensatory damages awardable in a Civil Rights Act case are not limited to the out-of-pocket pecuniary loss which petitioner has suffered. Damages can also be awarded for emotional and mental stress caused by the intentional tort. Donovan v Reinbold(CA9 Cal)433 F2d 738.

As a matter of federal law,it is not necessary to allege nominal damages;nominal damages are proved by proof of depriation of a right to which the plaintiff was entitled.Basista v Weir(CA3 Pa)340 F 2d 74.

Punitive damages are imposed in 42 USCS 1983 primarily for their effect on defendant,and to vindicate public interest in deterring malicious or wanton conduct by

public officials; in arriving at appropriate amount to be awarded as punitive damages, court must take into consideration severity of constitutional violation and what is necessary to reasonably deter such conduct in future, Aumiller v University of Delaware (1977, DC Del) 434 F Supp 1273, also, where defendants have acted willfully and in gross disregard for the rights of the plaintiff or when they have behaved in bad faith for an improper motive. Mitchell v Chester County Farms Prison (1976, DC Pa) 426 F Supp 271.

Wrongful search is a trepass which is an invasion of privacy, recovery can be made for mental and emotional distress, whether plaintiff has received a physical injury. 68 AM Jur 2d Sec. 121 and 122.

Summary dismissal of suit alleging law enforcement, mistreated and physically abused plaintiffs, and seeking court order to cancel arrest records after aquittal of plaintiffs, was an error as arrest records

seriously impair fundamental rights of persons involved. Wilson v Webster (1972, CA9) 467 F2d 368.

Cause of action for conspiracy can be based on 42 USCS Sec. 1981 or 1983. Mizell v North Broward Hospital Dist. (1970, CA5 Fla) 427 F2d 468. Also, McShane v Moldovan (1949, CA6 Mich) 172 F2d 1016.

In, Monroe v Pape, supra, the Supreme Court reversed the judgment below, on certiorari. Defining the action taken under color of state law, within scope of 42 USC 1983, resulting from the misuse of power, possessed by state law and made possible only because the wrongdoer was clothed with the authority of state law, Justice Douglas, expressed views of 8 members.

42 USCS 1985. Conspiracy to interfere with Civil Rights. (2) Obstructing justice intimidating party, witness. If 2 or more persons conspire to deter, by force, intimidation, or threat, any party or witness in any court of the U.S. from attending such

court,or to injure such party in his person or property on account of him so attended or testified,or any presentment,or conspire for the purpose of impeding,hindering,or obstructing justice,in any manner,with intent to deny equal protection of any laws,or to injure him for attempting to enforce equal protection of the law. (3)Depriving persons of rights and privileges.Re: Conspiracy,if one or more persons in furtherance of such conspiracy,whereby another is injured in his person or property,or deprived of his rights or privileges,the party so injured may have an action for recovery against any one or more of the conspirators.

District Attorney who conspired to punish plaintiff for taking opposing political view was not immune from suit,as he had used his office to harass plaintiff. Rousselle v Perez(1968, DC La)293 F Supp 298.

Lowenstein v Rooney(1975,DC NY)401 F Supp 952.Action brought by congressional candidate seeking relief from government officials for unlawful conduct,search by FBI,surveillance,unlawful conspiracy.

Azar v Conley(1972,CA6 Ohio)456 F2d 1382,later app (CA6 Ohio)480 F2d 220. All attempts to bring charges against co-defendant were suppressed by defendant police,who were friends of person who shot at him.Claim sustained under 42 USCS 1985(3).

On its face,1985(3)provides only for an award of damages of civil rights;however, District Court has jurisdiction to grant injunctive relief. There is no explicit language to preclude District Court from issuing an injunction to protect constitutional rights.Action v Gannon(CA8 Mo)450 F2d 1227.Brewer v Hoxie School Dist.(CA8 Ark)238 F2d 91;Freeman & Bass v New Jersey Com. of Investigation(DC NJ)359 F Supp 1053;Pennsylvania v International Union of Operating Engineers(DC Pa)347 F Supp 268.

If U.S. Attorney had good faith in his dealings with Petitioner's right to equal protection under the law, and a trial by a jury of his peers to resolve some,if not all,of these violations of his Civil and Constitutional Rights, and if it was truely thought that Petitioner's complaint was considered to be vague or insufficient,it is the Rules of Civil Procedure,Rule12(e), that calls for a Motion for More Definite Statement, not a Motin to Dismiss.

Petitioner reiterates that the 4 points taken by U.S. Attorney have no validity as service to all Respondents was made, cause of action,demand and claim are made on the last page of Complaint, page 36,and this is not a Torts,but a Civil Rights case.

Respondents objections were so obvious not true, and Petitioner thought it went without saying,especially,as he was dealing with the reality of 2 hurricane threats and bringing furniture upstairs,after work.

Petitioner lives in the Velocity Flood plain, high risk hurricane area. Hurricane Henry hit in the middle of Sept. and Gloria hit Sept. 27th. There was more damage here than anywhere else in R.I. Possibly, 8 yrs. of herbicides being sprayed on our trees weakened them so they couldn't withstand this hurricane, as they had in the past.

We got first motion before hurricane warnings, second in the middle of warnings, and third day after. The postman arrived in the middle of a jungle of fallen trees. Got a generator for lights 6½ days later, electricity 9½ days later. In O'Leary v Liggett Drug Co. supra, excuses of lawyer for untimely delay was given extra time.

Petitioner would have amended, given time, and added 28 USCS Sec. 1343, and hopefully will be allowed.

Respectfully submitted,

Reiner Schwarz Pro Se

REINER SCHWARZ, PRO SE

CERTIFICATION: True copies of this Supplemental Appendix were mailed to; Lincoln Almond, U.S. Attorney, Federal Bldg. Kennedy Plaza, Providence, R.I. 02903, Attorney General Arlene Violet, 72 Pine St. Prov. R.I. 02903, Olenn & Penza, 1246 Chalkstone Av. Prov. R.I. 02908, Edwin Meese Attorney General USA. Dept. of Justice, Constitution Av. & 10th St. NW Wash. D.C. 20530, John C. Martin, Inspector General EPA, 401 M St. SW Wash. D.C. 20460, Joel Gerber, Chief Counsel, IRS, Dept. of Treasury, 5th St. & Pennsylvania Av. NW Wash. D.C. 20224, John O. Marsh,Jr. Secretary of the Army, Pentagon, Wash. D.C. 20310.

Reiner Schwarz Pro Se

REINER SCHWARZ,PRO SE.
374 Sea View Dr.
Warwick,R.I. 02886
1-401-738 7648

Thomas D'angelo
Notary

Sworn to and subscribed before me on, November 12, 1986.